IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1048 OF 2005

Shri Balaram Dattu Pawse & Anr. ..Petitioners.

Versus

Shri Mohan Dattu Pawse & Ors. ..Respondents.

Mr. M.S. Kadu for the Petitioners.

Ms. Leena Patil for Respondents 1 to 3.

CORAM : S. A. BOBDE, J.

DATED : 25TH JULY, 2005.

P.C.:

1. Rule, returnable forthwith.

. Ms. Leena Patil waives service of rule for the respondents.

. Heard by consent.

2. The petitioners have challenged the order of

the IInd Joint Civil Judge, Sr. Division, Kalyan alongwith the amendment to the written statement. The main contention on behalf of the learned counsel for the petitioners is that the amendment which includes the claim or set off and the counter claim, is time barred. This is not a ground for refusing amendment, vide judgment of the Supreme Court in Raghu Thilak D. John vs. S. Rayapan & Ors, reported in AIR 2001 S.C. 699. In this view of the matter, I see no reason to interfere. The petitioners will be entitled to raise issue of limitation in his written statement.

3. Petition disposed of.

25.07.2005 (S.A.BOBDE,J.)